

### **REMARKS**

Claims 12-22 are amended, claims 1-6 and 23-24 are canceled, and claims 25-28 are added. Claims 7-22 and 25-29 are pending. Applicants respectfully submit that the amendments to the claims and the new claims are supported by the specification as filed and that no new matter has been added.

In response to the Restriction Requirement mailed on December 19, 2005, Applicants provisionally elect, with traverse, the claims of Group 3 (claims 9-11). Applicant further elects SEQ ID NO:14.

Applicants respectfully traverse the Restriction Requirement as Restriction Requirements are optional (MPEP 803). If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it may include claims to distinct or independent inventions (MPEP 803).

The Examiner has required the election of one of Groups I-VI, and for each of those Groups, has also required restriction to one of 11 SEQ ID NOs. It is respectfully submitted that Applicant should not be required to incur the substantial costs associated with the filing of multiple applications in order to obtain protection for the claimed subject matter. In particular, Applicant respectfully requests that the Examiner examine not only the claims of Group III as they are directed to polypeptides that include SEQ ID NO:14, but also the claims of Groups II, IV and V, especially as they are directed to isolated polynucleotides encoding polypeptides that include SEQ ID NO:14 (Group II), vaccines that include a polypeptide that includes SEQ ID NO:14 (Group IV), and methods of using a polypeptide that includes SEQ ID NO:14 (Group V). Applicants respectfully submit that such a search and examination can be made without serious burden on the Examiner.

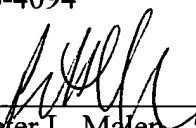
Applicant : Michael A. Apicella et al.  
Serial No. : 10/665,990  
Filed : September 19, 2003  
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Attorney's Docket No.: 17023.031US1 / 01025

The Examiner is invited to contact Applicants' Representative at the below-listed telephone number if there are any questions regarding this Response or if prosecution of this application may be assisted thereby. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3503.

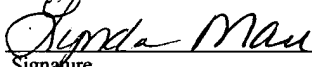
Respectfully submitted,  
Michael A. Apicella et al.  
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Date: Feb 21, 2006

By:   
Peter L. Malen  
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CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment; Commissioner for Patents; P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of February, 2006.

Lynda Mau  
Name

  
Signature